

**Review of Premises Licence for Clapp's Convenience Store, 236
Seafront, Hayling Island, PO11 0AU**

Report by the Licensing Officer Mr Gerry Thorne.

Background

A Premises Licence under the Licensing Act 2003 was issued to Islandwide (Hampshire) Ltd on 24 November 2005 for Clapp's Convenience Store, 236 Seafront, Hayling Island, PO11 0AU. This company is owned by Mr Nigel Swan.

The Designated Premises Supervisor is Darren John SAWYER, of 10 Mark Anthony Court, Beach Road Hayling Island, who has a personal licence HPE1306 Issued by Havant Borough Council and valid until 18/10/2023.

The Licence is for the sale of alcohol for consumption off the premises, between the hours of 8.00am and 11.00pm Monday to Saturday, 10.00am to 10.30pm Sundays, Good Friday 8.00am to 10.30pm, and Christmas Day 12noon to 3.00pm and 7.00pm to 10.30pm

The Licence includes the following conditions :-

Mandatory Conditions: Where licence authorises supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:

- 1) The first condition is that no supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Further Conditions added 1 October 2010

- 1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

- 2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY on 3rd October 2013

- (1) In addition to the DPS, at least 1 member of staff who is authorised to sell alcohol at the premises will pass the Level 2 BIIAB Award for personal licence holders course or equivalent course within 3 months of today's date. Thereafter the member of staff will receive refresher training regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication, every 6 months. Records of this training will be kept which should be signed and dated by the member of staff who received that training. All training records will be made available immediately upon the request of Hampshire Constabulary or any other responsible authority. Training records will be kept on the licensed premises to which they relate for a minimum period of two years.
- (2) A written log shall be kept of all refusals of age restricted products, including refusals to sell alcohol. This log will also record the sale of alcohol where the Challenge 25 policy has been applied and the customer has then produced appropriate identification allowing the sale to conclude. The premises licence holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the designated premises supervisor. The refusal log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any other responsible authority. Records of refusals will be retained for 12 months.
- (3) There will be a challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual who visually appears to be under the age of 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18

years of age or older. Acceptable identification for the purpose of age verification will include a driving licence, passport or photograph bearing the "PASS" logo and the persons date of birth. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person. Challenge 25 posters shall be displayed in prominent positions at the premises.

- (4) A document prominently be displayed on the premises showing staff authorised to sell alcohol.
- (5) The premises shall have sufficient cameras located within the premises to cover all public areas including the outside of the premises covering the entrance and exit.
- (6) The premises shall have a CCTV system which shall include the following features:
 - (i) The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas;
 - (ii) CCTV warning signs to be fitted in public places. The CCTV system must be operating at all times whilst the premises are open for licensable activity.
 - (iii) All equipment shall have a constant and accurate time and date generation.
 - (iv) The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
 - (v) The premises licence holder must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with i.e. password protected.
 - (vi) Viewable copies of CCTV footage will be supplied to the police within 24 hours of their request. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV

system software enabled on the disc to allow playback.

- (vii) In the event of a technical failure of the CCTV equipment the premises licence holder or designated premises supervisor must report the failure to the police licensing unit within 24 hours.

The Review Application

An application for a Review of the Premises Licence was made by the Hampshire Trading Standards on 27 March 2014. Detail of the review was served on Mr SWAN (as the Premises Licence Holder) and all the Responsible Authorities at the same time, and Notices were displayed on the Premises and at Havant Borough Council Offices and website for the regulatory 28 days.

A further representation has been made by PC Barron, Hampshire Constabulary (Licensing Officer for the Havant district). His representation is based upon the same facts as those of the Trading Standards Officers and he is fully supportive of their aims in this case.

No further representations or letters in support of the Premises Licence Holder have been received.

The Review

The Review relates to concerns regarding the Licensing Objectives of:-

- The Prevention of Crime and Disorder
- The Protection of Children from Harm.

Hampshire County Council Trading Standards Service are seeking a review under the prevention of crime and disorder and the protection of children from harm licensing objectives, following three consecutive failed alcohol test purchases in a ten month period.

Chronology of events:

26/04/13 - failed test purchase

18/07/13 -. failed test purchase

07/08/13 – 7 day closure notice in force

03/10/13 – Review hearing (which included 14 day suspension and conditions)

20/02/14 - failed test purchase

The store failed the third consecutive test purchase on 20 February 2014, when a member of staff, who had not been trained to BIIAB APLH level, sold alcohol to a sixteen year old girl volunteer working with Trading Standards. Three failed test purchases and each time by a different member of staff.

On 20 February 2014 when TSO Lawford returned to the store directly after the test purchase, he checked the training records and refusals books. The refusals book comprised of a separate sheet for each week. TSO Lawford noted that for week commencing (w/c) 05/01/14 there were 2 entries and the sheet was annotated, "original sheet lost"; w/c 19/01/14 - 2 entries annotated "not good enough"; w/c 26/01/14 – the sheet was missing; w/c 02/02/14 – 3 entries dated 2, 9 and 13 February; w/c 09/02/14 – no sheet; w/c 16/02/14 – 2 entries.

When the refusals book was inspected by TSO Lawford on 20 February 2014 there were no entries recorded in the refusals book where photographic ID had been produced as per the condition applied at the Review hearing on 3 October 2013. This could be that nobody had been asked for ID or that the store was not adhering to that condition of their premise licence.

Trading Standards feel that the conditions imposed at the Review hearing on 3 October 2013 have not worked, and the Challenge 25 condition and refusals book condition have not been complied with. It is not appropriate to remove the DPS nor to add further conditions when existing conditions are not being complied with. Therefore Trading Standards' view is that it is appropriate and proportionate that this premises licence be revoked.

Hampshire Constabulary Licensing Officer PC Barron has submitted a supporting representation and shares the concerns of Trading Standards and also seek revocation of the Premises Licence.

The Sub-Committee is requested to determine the application when they have heard from all parties.